

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ABDULLAHI FARAH,

Plaintiff,

vs.

TYSON FRESH MEATS, INC.,

Defendant.

8:23CV417

MEMORANDUM AND ORDER

This matter came on for further hearing regarding the sanctions previously imposed on Plaintiff. The Court found Plaintiff in civil contempt for failure to comply with Court orders regarding the production of discovery. [Filing No. 52 at 4](#). It ordered Plaintiff to purge himself of the contempt by producing the requested discovery on or before November 22, 2024, and filing the same on the docket. [Filing No. 52 at 4](#). The Court stated it would fine Plaintiff \$100 for every day after November 22, 2024, that he failed to adequately produce the discovery. [Filing No. 52 at 4](#). To date, Plaintiff has not produced the discovery in question.

The Court ordered the Plaintiff to appear at the hearing, but he did not appear. Plaintiff's counsel advised his client was uncooperative in providing the ordered discovery and had no further explanation for the lack of compliance with the Court's order. Defendant renewed its motion to dismiss this case as a sanction for Plaintiff's failure to follow discovery orders.

Under [Federal Rule of Civil Procedure 37](#), the Court can dismiss an action where a party or attorney "fails to obey an order to provide or permit discovery." [Fed. R. Civ. P. 37\(b\)\(2\)\(A\)](#). The Court previously outlined Plaintiff's numerous failures to produce

discovery and comply with Court orders. See, e.g., [Filing No. 45 at 1–3](#). Allowing Plaintiff to purge himself of the civil contempt was the Court’s final effort to allow Plaintiff to comply with Court orders and avoid the ultimate sanction of dismissal. Plaintiff having failed to avail himself of this final opportunity, the Court is left with no other option than dismissing this case. No lesser sanctions have sufficed to compel Plaintiff’s compliance, and accordingly, dismissal under Rule 37 is warranted. See [Comstock v. UPS Ground Freight, Inc.](#), 775 F.3d 990, 992 (8th Cir. 2014) (alterations in original) (“[I]n this circuit, before dismissing a case under Rule 37(b)(2) the court must investigate whether a sanction less extreme than dismissal would suffice” (quoting [Bergstrom v. Frascone](#), 744 F.3d 571, 576 (8th Cir. 2014))).

Defendant requests additional attorney’s fees. The Court previously awarded Defendant attorney’s fees related to its motion to compel and will not award additional attorney’s fees.

Lastly, Plaintiff having been held in civil contempt of Court and subject to a daily fine of \$100 commencing on November 23, 2024, for a total of 31 days, the Court will also order Plaintiff to pay \$3,100 in civil contempt fines to the Clerk of the Court as well as the costs of this action. Accordingly,

IT IS ORDERED:

1. Plaintiff is ordered to pay \$3,100 for his civil contempt fine and court costs to the Clerk of the Court.
2. This case is dismissed without prejudice for Plaintiff’s repeated failure to follow the Court’s orders. The Court will enter a separate judgment.

Dated this 23rd day of December, 2024.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge